

REMARKS

Status of the Application

Claims 1-12, 17-19, 33, 53 and 54 have been examined and stand rejected. Claims 13-16, 20-32, 34-52 and 55-72 are withdrawn from consideration in accord with the Response to Restriction Requirement filed June 5, 2006.

Claim Rejections - 35 U.S.C. § 112, first paragraph and second paragraph

The Examiner rejected claims 3 and 11 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement and under 35 U.S.C. § 112, second paragraph, as failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In particular, the Examiner alleges that Applicants admitted in our earlier remarks that “an automatic determination means which automatically makes examination,” was not described in the specification. First, Applicants submit that no such admission was made in the Amendment filed October 5, 2006. To the contrary, Applicants submitted that the specification discloses, at a level sufficient for one of skill in the art, how to make and use the invention as claimed in claims 3 and 11.

Second, Applicants submit the following to traverse this rejection. Consistent with the previously submitted remarks, Applicants submit that the specification discloses, at a level sufficient for one of ordinary skill in the art, how to make and use the invention as claimed in claims 3, 4, 11, 12 and 19. The test of enablement is whether one reasonably skilled in the art could make or use the invention from the disclosures in the patent coupled with information known in the art without undue experimentation. MPEP § 2164.01.

Specifically, on page 45, lines 6-27 of the specification, a method for ranking a diagnosis is described. For example, a determination may be a “1: normal” or a “2: to be reexamined.” Additionally, if different doctors apply different rankings (e.g. a 1 or a 2) a weight may also be given to each doctor. As described, if doctor A determines the diagnosis as a “1: normal” and doctor B determines the diagnosis as a “2: to be reexamined,” and the weight if doctor A is 1 while the weight of doctor 2 is 0.5, the supervisor determines the diagnosis to be a “1: normal”. This is because doctor A is given more weight. Conversely, if doctor A is weighted as a 0.5 and doctor B is weighted as a 1, the supervisor’s determination would be that the diagnosis is a “2: to be reexamined.” This is a mathematical weighing method to provide a useful diagnostic result.

Additionally, the present specification describes that it is possible to arrange the system so that the controller 42 automatically makes a determination after the server 40 receives individual diagnoses from all the diagnostic clients 10 and the result of the automatic determination may be taken as the result of the examination. (Specification, p. 47, lines 16-26)

Additionally, according to one non-limiting exemplary embodiment, the program of the automatic examination is stored in the program file 47 and executed under the control of the controller 42. (Specification, p. 48, lines 1-3; FIG. 2). Thus, the controller may simply perform, using the disclosed mathematical weighing method, based on the weight given to each diagnosis, which diagnosis carries more weight.

Obviously, based on the above described manual method of determining the result of the examination, one of ordinary skill would understand how to automate the arithmetic calculations performed manually. Because the tools for performing this manner of weighing a diagnosis in an automated fashion is well known in the art (i.e. ordinary mathematical calculations known to one

skilled in the art), converting this manual operation to an automatic operation is enabled.

Moreover, the “patent need not teach, and preferably omits, what is well known in the art.”

MPEP § 2164.01 (citing *In re Buchner*, 929 F.2d 660, 661 (Fed. Cir. 1991)). Therefore,

Applicants submit that automating this manual activity is well within the capabilities of one of ordinary skill in the art.

Furthermore, Applicants submits that the discussion above shows that the present specification and drawings provide adequate written support such that one of skill in the art would understand that the Applicants had possession of the claimed invention. Moreover, there is a strong presumption that an adequate written description of the claimed invention is present when the application is filed. MPEP § 2163 (I)(A) Thus, in view of discussion above which outlines the support provided in the specification for the “automatic determination means,” Applicants submit that the Examiner has failed to meet the burden of showing why one of skill in the art would not in the disclosure a description of the invention as defined by the claims.

Thus, Applicants submit that the automatic determination means is enabled by the present specification and that this rejection is in error.

Claim Rejections - 35 U.S.C. § 112, second paragraph

The Examiner rejected claims 4, 12 and 19 under § 112, first paragraph, as failing to comply with the written description requirement. Applicants traverse this rejection as follows.

The Examiner alleges that the “weighing the /by individual diagnoses” is not described in the specification to the extent to allow one of ordinary skill in the art to use the invention. More particularly, the Examiner alleges that

the specification discloses a weighing process that is directed and controlled by a human. Although the controller is capable of

automatically making a determination after the server receives the individual diagnosis, the weights must still be assigned to each doctor's diagnosis by a person prior to the determination being made.

(Office Action, pp. 2-3)(emphasis added).

In response to the Examiner's comments above, Applicants submit that the present specification provides adequate support that the weights need not be assigned to each doctor's diagnosis by a person. To the contrary, the present specification, in one non-limiting exemplary embodiment, provides that

[T]he server 40 may automatically make examination on the basis of the input individual diagnoses and weights for the respective doctors stored in the diagnostic information database, and the result of the automatic examination may be taken as the result of examination.

(Specification, p. 47, line 22 through p. 48, line 1).

Therefore, the present specification provides that the weights may be assigned automatically using the diagnostic information database. Accordingly, the basis for the Examiner's rejection is not supported by the present specification.

Thus, Applicants request that the Examiner withdraw the rejection of claims 4, 12 and 19 on this basis.

Claim Rejections - 35 U.S.C. § 102(e)

The Examiner rejected claims 1, 2, 5, 7, 8, 9, 10, 17, 18, 33, 53 and 54 as being anticipated by Wong et al. (US 6,260,021; "Wong"). Applicants traverse this rejection as follows.

Wong relates to an object oriented system and method for rapidly distributing medical images from exiting picture and report storage systems to a plurality of client workstations. The system provides image objects with uniform structure regardless of the type of system in which they are stored.

Regarding claim 1, Applicants submit that Wong fails to disclose, at least,:

(1) a plurality of diagnostic clients;

(2) wherein “each of the diagnostic clients receives a same image data to be examined from the server by way of a network”;

(3) wherein each of the diagnostic clients “sends individual diagnoses input through the diagnosis input means for the respective images represented by the same image data to be examined to the server;” and

(4) “the server causes the result storage means to store results of the examination obtained on the basis of the individual diagnoses sent from the respective diagnostic clients,” as recited in claim 1.

The Examiner cites column 4, lines 15-48 as disclosing this feature. However, this portion of Wong merely discloses that one or more computer systems are configured to retrieve medical report data associated with said medical image data and for presenting retrieved medical report data as medical report objects with a uniform object-oriented structure. (col. 4, lines 16-24). Additionally, this portion discloses that the one or more computer systems are further configured with one or more security object servers for checking with the authorization of a user. (col. 4, lines 33-35).

First, while one or more computer systems may be configure to receive medical image data and/or medical reports, nowhere is it disclosed that each computer receives the same image data. Wong is merely disclosing a distributed information system that permits computers to request image and report data. In this regard, these portions of Wong cited by the Examiner do not disclose wherein each of the diagnostic clients receives the same image data to be examiner

and sends individual diagnosis input through the diagnosis input means. No portion of Wong discloses wherein each diagnostic client receives image data and *also* sends an individual diagnosis. Furthermore, this is not an inherent feature in Wong.

In the Response to Argument section of this Office Action, the Examiner contends that the present claim fails to recites that the image data is the same image data, and that this feature is not recited in the claims. In contrast, Applicants submit that the claims require that “each of the diagnostic clients receives the image data to be examined.”

Second, as the same image is not necessarily sent to each of the diagnostic clients in Wong, Wong fails to disclose wherein the server causes the result storage means to store results of examination obtained on the basis of the individual diagnoses sent from the respective diagnostic clients.

Applicants also note that the Examiner has failed to address this argument in the Response to Arguments section of this Office action. Additionally, Applicants submit that the portion of Wong cited by the Examiner as disclosing this feature simply fails to do so. In particular, this portion of Wong merely discloses that the object interfaces provide for results and interpretation information and for the relation of interpretation information to the other classes of information.” (col. 11, lines 40-44). Applicant submit that this portion of Wong fails to disclose that the results are obtained on the basis of the individual diagnoses sent from the respective diagnostic clients. Rather, Wong is silent as to any specifics with regard to how the results are obtained. Because of the potentially large means that exist for providing medical results, it cannot be said that this feature is inherent within Wong and, thus, Wong fails to disclose every feature recited in claim 1.

Thus, Applicants submit that claim 1 is allowable for at least these reasons. Additionally, Applicants submit that claims 2, 5, 7, 8, 9 and 10 are allowable, at least because of their dependency from claim 1.

Similarly, because claim 17 recites “causing each of the diagnostic clients to receive a same piece of image data” and “inputting individual diagnoses obtained on the basis of the output visible image,” Applicants submit that this claim is allowable for the same reasons argued above. Additionally, Applicants submit that claim 18 is allowable, at least because of its dependency from claim 17.

Additionally, with regard to the portions of Wong cited in the rejection of claims 2, 8, 10 and 18, Applicants submit that these portions do not disclose the features recited in claims 2, 8, 10 and 18. In particular, these portions of Wong disclose a communication method between objects through the ORB (Object Request Broker), setting for each user at a client workstation and a method for displaying information at GUIs (Graphical User Interfaces). The communication method between objects is a method for communicating when the client-server image distribution system is implemented as an object-oriented and three-tiered client-server system, based on CORBA (Common Object Request Broker Architecture), to distribute information among different types of systems.

Thus, Applicants submit that claims 2, 8, 10 and 18 are allowable for these additional reasons.

Regarding claim 33, consistent with the remarks submitted on October 5, 2006, Applicants submit that Wong fails to disclose processing of sending medical image data to a server by way of a network. The Examiner cites column 1, lines 5-11 as disclosing this feature.

However, Applicants submit that Wong merely discloses sending medical images via a network “from multiple heterogeneous and incompatible existing server systems.” (col. 1, lines 9-11).

Regarding claim 53, Applicants submit that Wong fails to disclose, at least, “processing of sending a request for receiving medical image data related to a predetermined examination out of image data stored in a server by way of a network,” as recited. The Examiner cites column 6, lines 1-55 as disclosing this feature. However, in contrast to the Examiner’s reading of Wong, this cited portion merely discusses retrieving medical report data associated with medical image data. It does not disclose receiving medical image data related to a predetermined examination.

Furthermore, in the Response to Arguments section of this Office Action, the Examiner cites Wong column 1, lines 5-11 as disclosing this feature. However, this portion of Wong merely provides that Wong relates to a computer system and method for enabling uniform access to and ready distribution of medical images and associated records in electronic form via a network. Because this portion of Wong does not necessarily disclose providing medical image related to a predetermined examination, this feature is not inherent within Wong and, thus, Wong does not anticipate claim 53.

Thus, Applicants submit that claim 53 is allowable for at least this reason. Additionally, Applicants submit that claim 54 is allowable, at least because of its dependency from claim 53.

Claim Rejections - 35 U.S.C. § 103(a)

The Examiner rejected claims 3, 4, 11, 12 and 19 under § 103(a) as being unpatentable over Wong in view of Marchosky (US 2002/0029157). Applicants traverse this rejection as follows.

Marchosky is related to a medical records database and a diagnostic program wherein individual patient medical and biographical records are owned by individual patients who can enter information in their record as well as grant or deny authorization to others, such as health care professionals, to review part of their record. The diagnostic program provides a series of diagnostic questions to an individual wherein each potential response is weighted relative to its importance to a particular diagnosis.

Applicants submit that because Marchosky, either alone or in combination with Wong, fails to compensate for the above noted deficiency of Wong with regard to claims 1 and 17, claims 3, 4, 11, 12 and 19 are allowable, at least because of their dependency.

Additionally, Applicants submit that Marchosky is further deficient as set forth below.

Regarding claims 3 and 4, Applicants submit that the Marchosky/Wong combination fails to teach or suggest: (1) the individual diagnoses received, as recited in claim 3 and 11; and (2) each of the diagnostic clients is provided with a function of sending data on the doctor in charge to the server, as recited in claims 4, 6, 12 and 19.

Specifically, Marchosky merely discloses a system for providing information, such as the condition of a patient (the names of diseases) and methods for treatment, for the patient in the order of the probability of a disease that the patient may have. In Marchosky, a control computer provides so-called YES/NO questions for a single computer (terminal) of the patient or the like. The YES/NO questions are questions about the condition of the patient, the medical history of the patient and the medical history of the patient's family member. Then, the central computer receives answers to the questions from the computer, and further obtains the results of various examinations of the patient from a database. Then, the central computer sorts information, such

as the condition of a patent (the names of diseases) and methods for treatment information, in the order of the probability of a disease that the patient may have. The central computer sorts the information, based on the answers, the results of examinations and information for weighting each question and each examination result in each case, by correlating the information with the information for weighting.

In contrast, in the present invention, diagnostic results of the same image by a plurality of doctors are correlated with the image, and a final diagnostic result is obtained based on the diagnostic results (plural diagnoses). However, such a concept and a method for embodying the invention are not taught or suggested by Marchosky.

In the Response to Arguments section of this Office Action, the Examiner cites column 3, lines 46-50 as teaching the function of sending data on the doctor in charge to the server. However, this portion of Wong states:

The system also includes a security object server, for authorizing user access to the image distribution system and to particular objects, a personalization object server, for providing user interface preferences and client workstation capabilities, and a web server, for downloading initial access pages and user interface components.
(Wong, col. 3, lines 46-50).

Applicants submit that neither this portion nor any other portion of Wong teach that each of the diagnostic clients is provided with a function of sending data on the doctor in charge. In fact, Applicants submit that there is no basis for correlating the authorizing of a user's access to a system and the recited "sending data on the doctor in charge." Furthermore, the Examiner has provided no basis or reasoning in the rejection to support such a correlation.

Thus, Marchosky fails to teach or suggest the features of the present invention that each of the diagnostic clients sends data representing a doctor in charge to a server and the data is

received by the server, as recited in Claims 4, 6, 12 and 19. Further, Marchosky fails to teach or suggest the features that a plurality of diagnostic results of a single examination image (the same examination image) are received from a plurality of diagnostic clients, used by a plurality of doctors, as recited in Claims 3, 4, 6, 11 12 and 19.

Thus, Applicants submit that claims 3, 4, 6, 11, 12 and 19 are allowable for this additional reason.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

/David P. Emery/
David P. Emery
Registration No. 55,154

Date: March 14, 2007